

§ 967.38

7 CFR Ch. IX (1-1-01 Edition)

review by the Secretary. If a Base Quantity is issued to an applicant hereunder, the requirements of § 967.38(c) shall then apply.

(e) A condition for the continuing validity of a Base Quantity is production of celery thereunder. If no bona fide effort is made to produce and sell celery thereunder for two consecutive seasons commencing with the 1977-78 season, the Base Quantity may be declared invalid due to lack of use and cancelled at the end of the second season of non-production. The committee shall determine criteria, subject to approval by the Secretary, as to whether a bona fide effort has been made to produce and sell celery, including one requirement that the producer must have sold at least 50 percent of each of his seasonal Marketable Allotments, unless prevented from doing so by acts of God or other circumstances beyond his control.

(f) Annual registration of Base Quantity holders will be required no later than May 1 or such other date as may be approved pursuant to regulations. For the 1977-78 season Base Quantity holders shall register within 30 days following the effective date of this part but no later than July 31, 1977. Any Base Quantity holder who does not register or who has not made firm and substantial commitments to produce celery for the forthcoming season shall have his Base Quantity eliminated from the calculations in determining the Uniform Percentage. However, such procedure will not cause the Base Quantity holder to lose his Base Quantity.

[30 FR 14266, Nov. 13, 1965, as amended at 42 FR 32763, June 28, 1977]

§ 967.38 Marketable Allotments.

(a) When the Secretary establishes a season's Marketable Quantity, a percentage shall be determined by dividing the amount fixed as the season's Marketable Quantity by the total Base Quantities of producers who have registered with the committee pursuant to § 967.37(f).

(b) The Marketable Allotment for each producer shall be established by the committee by multiplying his Base Quantity by the appropriate Uniform Percentage. The resulting amount

shall be his Marketable Allotment for a season. The committee shall notify each producer of his allotment.

(c) After a producer has been notified of his Marketable Allotment, he shall, in turn, notify the committee, on forms furnished by it, the handler or handlers who will first handle all or a portion of his Marketable Allotment for the ensuing season, as well as the number of crates each such handler will so handle. This information shall be sent by the committee to the respective handlers.

(d) If the committee recommends and the Secretary approves, that no season's Marketable Quantity be established, the Marketable Allotment of each producer shall be unlimited.

(e) When the Marketable Quantity is equal to or smaller than total Base Quantities, the first 37,500 crates of each producer's Base Quantity shall be subtracted from both the Marketable Quantity and total Base Quantities when the Uniform Percentage is calculated in this section (§ 967.38(a)), and the Uniform Percentage for the first 37,500 crates will be 100 percent. In the event the Marketable Quantity exceeds total Base Quantities, there shall be no exemption for the first 37,500 crates and the Uniform Percentage shall be applied to each producer's total Base Quantity.

(f) Marketable allotments shall be issued only to producers who have registered by May 1, or such other date prescribed by the Secretary, and indicated firm and substantial commitments for the production of celery for the forthcoming season.

[30 FR 14266, Nov. 13, 1965, as amended at 42 FR 32764, June 28, 1977]

§ 967.39 Transfers.

(a) Producers' Base Quantities or Marketable Allotments, or both, may be transferred upon appropriate requests therefor, pursuant to § 967.37 and upon approval of the committee.

(b) Any producer with a Base Quantity may request a transfer of all or a portion of his Base Quantity for a specified period of time.

(c) Any producer with a Marketable Allotment may request a transfer of all or a portion of his Marketable Allotment during a current season.

(d) Producers must advise the committee, prior to final approval of a transfer, that a different amount will be handled by a handler or handlers due to any transfer authorized in paragraph (c) of this section. The committee, upon receipt of such notification, shall advise the handler or handlers involved of the adjustments in the amount they may handle as first handlers thereof for the current season, based upon the number of crates involved in the transfer, as well as issue revised Marketable Allotments to the producers involved.

OTHER REGULATIONS

§ 967.40 Issuance of other regulations.

(a) The Secretary may limit the handling of celery whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations would tend to effectuate the declared policy of the act.

(b) Such regulations may:

(1) Establish specific Flow-to-Market periods and limit the total quantity of celery which may be handled therein;

(i) The committee may recommend and the Secretary may issue such rules as are necessary to effectuate the Flow-to-Market procedures and regulations.

(ii) The committee may recommend to the Secretary and the Secretary may limit in conformity with paragraph (a) of this section the total quantity of celery which is deemed advisable to be handled during any specified Flow-to-Market period or periods.

(iii) In making its recommendations, the committee shall give due consideration to the following factors:

(a) Market prices for celery; (b) supply of celery on hand at shipping point, on track at, and en route to, the principal markets; (c) supply, maturity, and condition of celery in the production area; (d) market prices and supplies of celery from competitive producing areas, and supplies of other competitive vegetables; (e) trend and level in consumer income; and (f) other relevant factors as specified by the committee in its recommendation.

(iv) At any time during a Flow-to-Market period for which the Secretary

has fixed the quantity of celery which may be handled, the committee may recommend to the Secretary that such quantity be increased for such period. Each such recommendation, together with the committee's reason for such recommendation, shall be submitted promptly to the Secretary.

(v) Whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of celery which may be handled during a specified Flow-to-Market period will tend to effectuate the declared policy of the Act, he shall fix such quantity. The quantity so fixed for any such period may be increased by the Secretary at any time during such period. The Secretary may upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation at any time.

(vi)(a) At the times specified by the committee, each handler of celery shall submit to the committee, on forms to be supplied by the committee, a report setting forth the number of crates each producer or farm operation will make available to him for handling during the applicable period; and in the case of a farm operation, shall specify the number of total crates available which are to be attributed to each holder of a Marketable Allotment who is involved in the farm operation so that each holder of a Marketable Allotment is treated as an individual producer for the purposes of the Flow-to-Market regulation.

(b) Such written request and report shall be submitted at such time and in such manner and contain such other information as the committee may recommend and the Secretary approve.

(c) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted the information a reasonable opportunity to discuss with the committee the factors considered in making the correction.

(vii)(a) Whenever the Secretary has fixed the total quantity of celery that